

**MEMORANDUM**

TO: County Council

FROM: Jeffrey L. Zyontz, Legislative Attorney

SUBJECT: **Introduction:** Bill 15-08, Building Permit - Notice

Bill 15-08, Building Permit - Notice, sponsored by Councilmember Berliner, is scheduled to be introduced on May 6, 2008. A public hearing is scheduled for June 17 at 7:30 p.m. This Bill reflects some of Councilmember Berliner's recommendations based on his interaction with the Infill Development Task Force.

Residents and civic associations currently learn of a building permit only after it is issued and posted on a property. A building permit applicant may be unaware of the norms of the neighborhood before submitting their application for a building permit. The current provisions for building permit applications are not concise, precise, and decisive. This amendment to the building permit application provision of the County Code would require an affidavit from certain applicants for certain building permits in small lot residential zones to assure notice to abutting and confronting property owners. The civic and homeowners' association that cover the area of the building permit would also be similarly notified. Bill 15-08 would also require certain applicants to request any neighborhood design guidelines established by the relevant civic or homeowners' association, and would generally amend the provisions for a building permit application.

This packet contains  
Bill 15-08  
Legislative Request Report

Circle  
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Bill No. 15-08  
Concerning: Building Permits - Notice  
Revised: \_\_\_\_\_ Draft No. 1  
Introduced: May 6, 2008  
Expires: November 6, 2009  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. 8, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmember Berliner

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**AN ACT** to:

- (1) require applicants for certain building permits in residential zones to notify certain property owners;
- (2) require applicants for certain building permits in residential zones to request neighborhood design guidelines established by certain civic or homeowners' associations; and
- (3) generally amend the law regarding building permits.

By amending

Montgomery County Code  
Chapter 8, Building Permits  
Section 8-24

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Section 8-24 is amended as follows:**

**8-24. Application for building permit.**

**(a) When required.** [It shall be unlawful to construct,]

(1) Except as provide in paragraph (2), any person or entity who performs construction to:

(A) enlarge, alter, remove or demolish a building; [or]

(B) change the occupancy of a building from one use group to another requiring greater strength, exitway, or sanitary provisions; [or to]

(C) change to a prohibited use; or

(D) [to] install or alter any equipment [for which provision is made or the installation of which is] regulated by this [chapter, without first filing] Chapter,

must [an application with the department in writing and obtaining] obtain the [required] permit required under this Chapter. [therefore; except, that ordinary repairs]

(2) Any ordinary repair, as defined in [section] Section 8-3, which [do] does not involve any violation of this [chapter shall be exempt from this provision] Chapter, does not require a permit.

**(b) Form.** [Application] Each application for a permit [shall] must be submitted on forms [prescribed] provided by the Director and [shall] must be accompanied by the [required] fee [as prescribed by] required under this [chapter] Chapter.

**(c) Qualified applicants.** [Application for a permit shall] Each application must be [made] signed by the owner or lessee of the building or structure, or an agent of either, or by [the] a licensed engineer or architect employed in connection with the proposed work. If the

application is [made] signed by a person other than the owner [in fee], it [shall] must be accompanied by a [duly verified] notarized affidavit of the owner or the qualified [person making the application] applicant that the proposed work is authorized by the owner [in fee] and that the applicant is authorized to [make such] sign and file the application. [The] Each application must contain the full names and addresses of the owner, lessee, and applicant, and of the responsible officer[,], if the owner or lessee is a corporate body[,], shall be stated in the application].

(d) **Description of work.** [The] Each application [shall] must contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building, and [such] any additional information [as may be required by] the Director requires.

(e) **Plans and specifications.** [The] Each application [for the permit shall] must be accompanied by [not less than two (2)] at least 2 copies of specifications and of plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the work to be performed. When a specific quality of materials is essential [for conformity to] to comply with this [chapter] Chapter, the application must contain specific information [shall be given] to establish [such] the required quality. [; and in no case shall] The application must not simply cite this [chapter] Chapter [be cited] or use the term "legal" or [its] any equivalent [be used] as a substitute for specific information. The Director may waive the requirement [for filing] to file plans [when the work involved is of a minor nature] for minor work.

(f) **Plot diagram.** [There shall also be filed in duplicate with each] Each application for a building or occupancy permit[,], must include two copies of a plot plan, drawn to scale, showing the:

- (1) [The lot upon which the] proposed [building is to be erected] building's underlying lot, lot dimensions, lot and block numbers, and subdivision name, if any;
- (2) [Name] name and width of each abutting [streets] street;
- (3) [Location] location, dimensions, and use of each existing [buildings] building and other [structures] structure on the same lot;
- (4) [The] location, dimensions, and proposed use of each [buildings] building and other [structures] structure for which a permit is [requested] applied;
- (5) [Front] width of each front and rear yard [widths]; and
- (6) [North] north point and scale of the plan.

(g) **Engineering details.** The Director may require the application to contain adequate details of structural, mechanical, and electrical work, including computations, stress diagrams, and other essential technical data [to be filed]. All engineering plans and computations [shall bear the signature of] must be signed by the engineer or architect responsible for the design.

(h) **Notice affidavit.**

- (1) For any building that would be located in the R-40, R-60, R-90, R-150, or R-200 zone, the applicant for any permit to demolish a building, build a new main building, or add more than 200 square feet of gross floor area to an existing building, must sign and file

a notarized affidavit as described by this subsection, using a form provided by the Director.

(2) The affidavit must confirm that:

(A) at least 30 days before filing the application, the applicant delivered or sent written notice of the applicant's name, address, and telephone number and information concerning the size, height, setbacks, and exterior design of each proposed building or addition to:

(i) any lot owner whose lot abuts or confronts the lot identified in the application; and

(ii) any civic or homeowner's association if the lot identified in the application is in the association's geographic area, as defined by the Planning Board's list and map of civic and homeowners' associations; and

(B) the applicant requested any civic or homeowner's association which received notice under subparagraph (A)(ii) to notify the applicant of any design guidelines established by the association.

(3) The applicant must attach to each affidavit a copy of the written notice delivered or sent under this subsection and the name and address of each party who received the notice.

[(h)](i) **Amendments to application.** Subject to [the limitations of] subsection [(i)] (j) [of this section], [amendments] an amendment to a plan, application, or other [records accompanying the same] document may be filed at any time before [completion of] the work for which the

permit is sought or issued is completed. [and such amendments shall]  
Each timely filed amendment must be [deemed] treated as part of the  
 original application and [shall be] filed [therewith] with it.

**[(i)] (j) Time [limitation of application] limit.** An application for a permit  
 for any proposed work [shall be deemed to have been] must be treated  
as abandoned [six (6)] 6 months after [date of filing] the application was  
filed, unless [such] the application has been diligently prosecuted or a  
 permit [shall have been] was issued. [; except, that] However, for  
 reasonable cause, the Director may [grant one (1) or more extensions of  
 time] extend the time for the Department to consider an application for  
one or more additional periods which do not [exceeding ninety (90)]  
exceed 90 days each.

*Approved:*

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Michael J. Knapp, President, County Council

Date

*Approved:*

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Isiah Leggett, County Executive

Date

*This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date

## LEGISLATIVE REQUEST REPORT

Bill 15-08  
*Building Permit - Notice*

<b>DESCRIPTION:</b>	This amendment to the building permit application provision of the County Code would require an affidavit from certain building permit applicants to assure notice to certain parties, and that the applicant received any neighborhood design guidelines established by the relevant civic or homeowners' association , and would generally amend the provisions for a building permit application.
<b>PROBLEM:</b>	Residents and civic associations currently learn of building permits only after it is issued and posted on the property. A building permit applicant may be unaware of the norms of the neighborhood before submitting their application for a building permit. The current provisions for building permit applications are not concise, precise, and decisive.
<b>GOALS AND OBJECTIVES:</b>	This amendment to the building permit application provision of the County Code would require an affidavit from certain building permit applicants to assure notice to certain parties, and that the applicant received any neighborhood design guidelines established by the relevant civic or homeowners' association , and would generally amend the provisions for a building permit application.
<b>COORDINATION:</b>	Department of Permitting Services
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Jeffrey L. Zyontz
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	To the extent that the Department of Permitting Services is issuing permits for land in municipalities, this bill will affect those municipalities.
<b>PENALTIES:</b>	Denial of a building permit application.